

GILL-GARRISON et al.  
Appl. No. 09/771,933  
November 9, 2005

### **REMARKS**

Reconsideration is requested.

The Interview with the Examiners on October 18, 2005 is acknowledged, with appreciation. An Interview Summary was not provided by the Examiners during the interview. The following includes a summary of the interview. The Examiner is request to contact the undersigned in the event the following contains any inadvertent mischaracterizations of the issues discussed during the interview.

The claims have been amended in a manner which is believed to have been discussed with the Examiners. The undersigned believes the Examiners were of the opinion during the interview that amendments of the sort presented above would advance prosecution. Specifically, the applicants have amended claims 1 and 14 above to include the details of claims 2 and 15, respectively. Claims 2 and 15 have therefore been canceled above, without prejudice, to advance prosecution. Claims 1 and 14 have been amended above to further distinguish the present claims over the cited art, as further discussed below.

Moreover, the claims have been amended above in a manner believed to be acceptable to the Examiners during the interview to obviate the Section 112, second paragraph, rejection of claims 1-28.

Claims 1, 3-14 and 16-28 will be pending upon entry of the present Amendment. The claims are believed to read on the elected species. See, for example, the paragraph including the passage at page 18, lines 6-10 of the specification and the paragraph including the passage at page 23, lines 29-32 of the specification, relating to genes that encode enzymes responsible for detoxification of xenobiotics in phase I

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metabolism, and glutathione-S-transferase, respectively. As the amended claims are believed to define over the cited art, as discussed below, the Examiner is requested to broaden the search to encompass all of the claimed invention.

Entry of the present Amendment is requested. The amended claims are not believed to raise new issues requiring further search and/or consideration. The claim amendments are not believed to add new matter and the claim amendments are believed to advance prosecution by placing the claims in condition for allowance.

A further copy of Figures 1 and 2 is attached, as requested by the Examiner on page 2 of the Office Action dated August 9, 2005. The undersigned is uncertain if the Examiner is requiring an Amendment to replace the original drawings or if the attached further copy of the drawings will be acceptable. Clarification is requested in the event anything further is required in this regard.

The claim objections noted in the paragraph spanning pages 2-3 of the Office action dated August 9, 2005, are obviated by the above amendments.

The Section 112, second paragraph, rejection of claims 1-28 is submitted to be obviated by the above amendments. Specifically, the previous references to loci have been deleted in the above amendments, in a manner which is believed to have been discussed with the Examiners during the interview. Entry of the present Amendment and withdrawal of the Section 112 rejection are requested.

The Section 103 rejection of claims 1-28 over Brown (U.S. Patent No. 5,985,559) in view of Perera (Carcinogenesis (2000) Vol. 21, pp 517-524), is submitted to be obviated by the above amendments. Consideration of the following further comments in this regard is requested.

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As discussed with the Examiners during the interview, the applicants believe that Brown relates to the provision of a health monitor to provide a "personalised prognosis" (column 2, line 21) and to allow "monitoring of a patient's condition over time in order to track the effectiveness of treatments and changes in patient behaviour" (column 2, lines 24-26). The examples of Brown relate to the monitoring of chronic conditions, namely cystic fibrosis and Gaucher disease. Brown also proposes in the examples at column 6, lines 19-28 to monitor a pathogen-caused disease. It is thus believed to be an object of the Brown disclosure to, at most, diagnose specific chronic diseases and provide treatments specifically directed at such disease conditions.

In contrast, the presently claimed invention provides a means to generate a personalized lifestyle advice plan which is suitable for individuals. The personalized lifestyle advice plan includes recommended minimum and/or maximum amounts of food subtypes which should be consumed in view of risk factors associated with alleles present in each individual. There is no teaching in Brown that the health monitor could or should be used to deliver such information. Instead, Brown is understood to focus on disease-specific treatments and the monitoring of such treatments on an ongoing basis by a physician. There is no teaching in Brown to correlate the presence of lifestyle risk factors with the consumption or avoidance of food subtypes as taught by the present invention. This is because Brown is directed to the monitoring of patients in a clinical setting for the ongoing treatment of chronic conditions.

The disclosure of Perera does not overcome the deficiencies of Brown. There would have been no motivation by a person of ordinary skill in the art to seek to combine Brown and Perera since Brown is concerned with the ongoing monitoring of

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chronic diseases whereas Perera is merely descriptive of genetic factors which may or may not be associated with conditions in certain individuals. There is no teaching in the cited art to suggest that the disease-monitoring methods of Brown could or should have been modified in any manner to be of use in the provision of lifestyle advice plans based on recommended minimum and/or maximum amounts of food subtypes.

In view of the above and all of the remarks of record, entry of the present Amendment, and withdrawal of the Section 103 are requested.

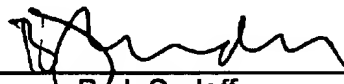
The present Amendment is submitted to advance prosecution by placing the application in condition for allowance and entry of the Amendment along with a Notice of Allowance are requested.

The Examiner is requested to contact the undersigned in the event anything further is required.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

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